

The Supreme Court Update - June 27, 2024

by Ian Blodger, Jessica M. Leano, and Brock Huebner

The Supreme Court of the United States issued four decisions today:

Moyle v. United States; Idaho v. United States, Nos. 23-726, 23-727: After granting certiorari to decide whether the Emergency Medical Treatment and Labor Act (EMTALA) preempts a provision of Idaho law that prohibits abortions except when necessary to save the life of the mother, in a per curiam decision, the Court dismissed the writs as improvidently granted and vacated the stays of these cases. Justice Kagan, joined by Justice Sotomayor, and joined by Justice Jackson in part, concurred on grounds that Idaho's arguments about EMTALA do not and have never justified either emergency relief or the Court's early consideration of this dispute. Justice Barrett, joined by Chief Justice Roberts and Justice Kavanaugh, concurred on grounds that the "shape of these cases substantially shifted" since the Court granted certiorari and the proceedings should be permitted to run their course in the lower courts. Justice Jackson concurred in part and dissented in part, holding that to the extent that Idaho law conflicts with EMTALA, the State's law must give way. Justice Jackson joined in Justice Kagan's statutory analysis and the decision to lift the stays, but disagreed in dismissing the writs as improvidently granted. Justice Alito dissented on grounds that "nothing legally relevant" occurred since the Court stayed the cases and the issue of whether EMTALA requires hospitals to perform abortions in some circumstances is a straightforward question of statutory interpretation.

View the [Court's decision](#).

SEC v. Jarkesy, No. 22-859: This case concerns the constitutionality of the Securities and Exchange Commission ("SEC") and its role in enforcing federal securities laws. Congress granted the SEC the power to enforce such laws either by filing a lawsuit in an Article III federal court or by adjudicating the case through its own administrative enforcement proceedings, which are tried without a jury. The SEC used the latter option to determine that George Jarkesy, Jr. and his firm violated antifraud provisions of federal securities law and imposed a \$300,000 civil penalty. Jarkesy challenged this penalty,

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arguing the SEC overall, and the internal administrative enforcement regime in particular, were unconstitutional. The Fifth Circuit agreed and vacated the penalty. In a 6-3 decision authored by Chief Justice Roberts, the Court agreed with Jarkesy that the SEC's procedures of imposing civil penalties without a jury violated the Seventh Amendment. The Court determined that the Seventh Amendment was implicated because the SEC's antifraud provisions replicate common law fraud, and that the "public rights" exception for matters traditionally governed by the legislative or executive branches does not apply. The Court did not decide whether the SEC's structure violated the Constitution's non-delegation doctrine or separation of powers provisions. Justice Gorsuch filed a concurring opinion, joined by Justice Thomas, to state that Article III and the Due Process Clause also support the Court's conclusion. Justice Sotomayor dissented and was joined by Justices Kagan and Jackson, disagreeing with the majority's public rights analysis and raising separation of powers concerns.

View the [Court's decision](#).

Ohio v. EPA; Kinder Morgan, Inc., v. EPA; American Forest & Paper Association v. EPA; U.S. Steel Corporation v. EPA, Nos. 23A349, 23A350, 23A351, 23A384: These consolidated cases sought a stay to prevent the enforcement of the Environmental Protection Agency's ("EPA") proposed regulations to reduce ozone levels. Under the Clean Air Act, the EPA sets national standards for ozone and other air pollutants, and individual States submit plans to meet those standards. If a State's plan fails to do so, the EPA can impose a federal plan on the State. After the EPA revised its ozone standards in 2015, it rejected multiple States' plans for violating the Clean Air Act's "Good Neighbor Provision," which ensures one State's actions and emissions do not cause a different downwind State to fall short of the EPA's national standards. The EPA proposed a federal plan for those non-compliant States. After years of litigation and administrative challenges that released some States from the federal plan, three remaining States and various private and industry plaintiffs sued the EPA and requested a stay to prevent implementation and enforcement of the federal plan pending resolution of the legal challenges. In 2023, the Supreme Court declined to issue an emergency stay, but instead scheduled the case for oral argument. In a 5-4 decision authored by Justice Gorsuch, the Court granted the application to stay enforcement of the federal plan. The Court applied the four-factor test for deciding stay applications under *Nken v. Holder*, 556 U. S. 418, 434 (2009), focusing in particular on its conclusion that the plaintiffs were likely to succeed on the merits in claiming that enforcement of the federal plan would be arbitrary and capricious. Justice Barrett dissented and was joined by Justices Sotomayor, Kagan, and Jackson.

View the [Court's decision](#).

Harrington v. Purdue Pharma L.P., No. 23-124: This case addresses whether the bankruptcy code authorizes a court to issue an order extinguishing existing and potential claims against a nondebtor. The Sackler family owned and controlled Purdue, which marketed opioid prescription pain reliever OxyContin. After Purdue filed for Chapter 11 bankruptcy, the Sackler family proposed to return to Purdue's bankruptcy estate billions

they had withdrawn from the company in exchange for an order extinguishing claims the estate may have against Sackler family members and an injunction preventing suits against the company's officers and directors and hundreds, if not thousands, of Sackler family members and entities under their control. Over objections of opioid victims, states and municipalities, and the U.S. Trustee, the bankruptcy court entered an order confirming the plan, which the district court vacated. A divided Second Circuit panel reversed the district court and revived the bankruptcy court's order. In a 5-4 opinion authored by Justice Gorsuch, the Court reversed the Second Circuit and resolved a Circuit split, holding that while the bankruptcy code, in Section 1123(b)(6), has a "catchall" provision providing that a plan "may" also "include any other appropriate provision not inconsistent with the applicable provisions," the text, the statutory scheme, history, and policy led to the conclusion that the code does not authorize a release and injunction that effectively seeks to discharge claims against a nondebtor without the consent of affected claimants. Justice Kavanaugh, joined by Chief Justice Roberts and Justices Sotomayor and Kagan, dissented, finding that the majority rewrites the text of the bankruptcy code and restricts the long-established authority of bankruptcy courts to fashion fair and equitable relief for mass-tort victims.

View the [Court's decision](#).